

CAUSE # 18CR1580

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	OF
vs.	§	GALVESTON COUNTY,
	§	TEXAS
DIMITRIOS PAGOURTZIS	§	122nd JUDICIAL DISTRICT

DEFENDANT'S MOTION FOR CHANGE OF VENUE

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, DIMITRIOS PAGOURTZIS, Defendant in the above-entitled and numbered cause, by and through his attorneys of record, Nicholas Poehl and Robert Barfield, and requests this Honorable Court to change venue for the trial of the instant case; and in support thereof would show the Court as follows:

I.

In this case, the Defendant is charged with the offense of Aggravated Assault on a Public Servant. The offense is alleged to have occurred on May 18, 2018. Since that date, there has been extensive media coverage of the offense and considerable discussion has occurred in the community regarding the offense and the Defendant.

II.

STATUTORY BASIS: Every Defendant in a criminal case is guaranteed the due process of a fair trial by an impartial jury under the United States Constitution, Amendment VI., and the Constitution of the State of Texas, Article I, §10. Further, under The Texas Code of Criminal Procedure Article 31.03 a change of venue may be granted in a criminal case on the Motion of the Defendant if supported by Defendant's Affidavit and the Affidavits of two other credible residents of the County where a showing of such great prejudice exists that the Defendant would not be able to obtain a fair and impartial trial.

III.

PREJUDICE FROM PUBLICITY: Due to the local media coverage including social media, and the tight-knit local Galveston County Community, there is so great a prejudice in Galveston County, Texas, that this Defendant cannot obtain a fair and impartial jury trial. To justify a change of venue based on public attention sparked by media coverage, a Defendant must show that the publicity was pervasive, prejudicial, and inflammatory. *Gonzalez v. State*, 222 S.W.3d 446, 449 (Tex.Crim.App.2007).

Gonzalez, 222 at 451. Factors a court may consider in determining whether pretrial publicity is prejudicial and inflammatory:

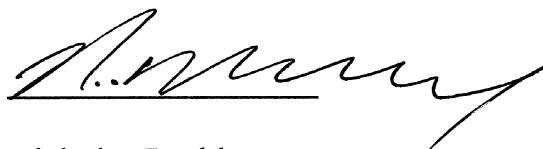
- 1) the nature of the publicity,
- 2) any evidence presented at a change of venue hearing, and
- 3) testimony received from veniremembers at voir dire.

IV.

Since the date of the charged offense and because of considerable discussion in the community, there exists in Galveston County so great a prejudice against the Defendant that he cannot receive a fair and impartial trial in this County; the amount of publicity generated by the instant case has been so great that it has produced so much prejudice in the community that the likelihood of the Defendant receiving a fair and impartial trial is doubtful.

WHEREFORE, PREMISES CONSIDERED, as this Defendant is guaranteed the due process of a fair trial by an impartial jury under the United States Constitution, Amendment VI., and the Constitution of the State of Texas, Article I, §10, a change of venue must be granted.

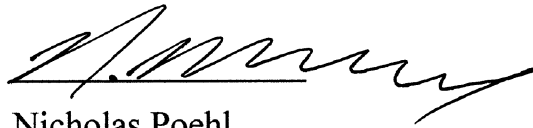
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. Poehl', written over a horizontal line.

Nicholas Poehl
Attorney for Defendant,

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been hand delivered to the office of the District Attorney for GALVESTON COUNTY, TEXAS, on this the 8th day of January, 2019.

A handwritten signature in black ink, appearing to read 'N. Poehl', written over a horizontal line.

Nicholas Poehl
Attorney for Defendant